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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In re Amendment of Section 73.202(b) )  
of the Commission's Rules, Table of Allotments, )  
FM Broadcast Stations )  
(COUPEVILLE, WASHINGTON) )

MM Docket No. 04-280  
RM-110375

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: The Office of the Secretary,  
for the Attention of the Assistant Chief, Audio Division, Media Bureau

## COUNTERPROPOSAL

Plan 9 Broadcasting (*Plan 9*), by its communications counsel, hereby lodges its  
Counterproposal to the proposed allotment of Channel 266A to the community of Coupeville,  
Washington.

### I. BACKGROUND

#### THE PETITION AND THE NPRM

1. A Petition for Rule Making filed by Dana J. Puopolo prompted the Media Bureau to issue the Notice of Proposed Rule Making in the instant proceeding, 19 FCC Rcd 13858, 69 Fed. Reg. 46474 (2004) (the NPRM). The NPRM proposed to allot Channel 266A to Coupeville, Washington as a first local service.<sup>1</sup> This allotment would require a site restriction of 9.5 kilometers (5.9 miles) North to avoid a short-spacing to the licensed site for station KPLZ-FM, Channel 268C, Seattle, Washington. Because Coupeville is located within 320 kilometers of the U.S.-Canadian border, and because the proposed allotment would be short-spaced to a Canadian facility occupying Channel 266C at New Westminster, British Columbia, and also to

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<sup>1</sup> Reference point: North Latitude 48° 18' 00"; West Longitude 122° 42' 00".

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the reference point for Channel 266A at River Jordan, British Columbia, concurrence of the Canadian government to the allotment as a specially negotiated, short-spaced allotment is necessary. The Commission has sought such concurrence.

## **II. COUNTERPROPOSAL**

2. Plan 9's Counterproposal is as follows. Plan 9 requests the allotment of Channel 266A to the community of Sequim, Washington as a first local service.<sup>2</sup> This request directly conflicts with the NPRM.

3. As indicated in Exhibit A, the Engineering Statement of Hatfield & Dawson Consulting Electrical Engineers, the Commission can allot Channel 266A to Sequim consistent with the U.S.-Canadian Agreement on FM Broadcasting as a specially negotiated short-spaced allotment. Plan 9 requests that the Commission seek such concurrence from Industry Canada. As Exhibit A also indicates, the proposed allotment complies with domestic spacing requirements and city-grade-service requirements to Sequim.

4. The instant Counterproposal will provide Sequim, an incorporated city with a population of 4,334 persons (as reported by the 2000 U.S. Census) with its first local service. Coupeville, by contrast, has only 1,723 residents (also per the 2000 U.S. Census). As the substantially larger community, Sequim is far more deserving of a first local service. Therefore, this Counterproposal must prevail over Mr. Puopolo's original proposal. See, e.g., Brightwood et al. Oregon, 66 Fed. Reg. 56486 (2001), Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

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<sup>2</sup>Reference Point: North Latitude 48° 04' 47"; West Longitude 123° 06' 01".

5. Grant of the proposed allotment at Sequim will provide a total of 65,375 persons within the 60 dBu contour with an additional aural service. In addition, grant of this proposal will provide the first local commercial FM service to the north coast of the Olympic Peninsula. Sequim is located approximately two hours by car from the major metropolitan center of Seattle, Washington. The trip to Seattle requires at least one ferry ride (either Kington-to-Edmonds or Bainbridge Island-to-Seattle) or a long drive around the south end of Hood Canal. Reception in Sequim of Seattle FM stations is somewhat spotty in any case.

6. The only commercial FM stations which provide 60 dBu service to Sequim (apart from Canadian stations licensed to the Victoria, British Columbia, area) are KISM 225C Bellingham, KAFE 282C Bellingham, and KWPZ 293C Lynden, Washington. Bellingham and Lynden are a three hour drive from Sequim, again requiring one ferry ride (Port Townsend-to-Keystone). Consequently, residents and businesses in Sequim and the surrounding area do not have ready access to any local commercial FM stations to serve their unique needs.

7. Sequim has exhibited steady growth over the past two decades. As noted above, its 2000 Census population is 4,334 persons. Its 1990 Census population was 3,616. Sequim's 1980 Census population was 3,013. The city's official web site is <<http://www.ci.sequim.wa.us>>. The Sequim-Dungeness Chamber of Commerce has its own web site: <<http://www.cityofsequim.com>>. As recited at <<http://sequim.com/about/about.html>>, a petition for incorporation, signed by 79 qualified voters, was presented to the Board of County Commissioners of Clallam County on August 4, 1913. On October 20, 1913, the vote on incorporation was 90 for, and 66 against. As a result, on October 31, 1913, Sequim became an incorporated town.

8. In the native language of the S'Klallam tribe, "S'Kwim" means, "quiet waters." The City of Sequim and the surrounding Sequim-Dungeness Valley is located on the Strait of Juan de Fuca, on the north coast of Washington State. Sequim and the Dungeness Valley form the gateway to the Olympic Peninsula and the peninsula's many tourist attractions. Sequim is approximately two hours from Seattle, Tacoma, or Olympia. Currently, the population of Sequim is 4,440, and approximately 23,000 of Clallam County's approximately 65,000 residents live in the Dungeness Valley.

9. The City of Sequim utilizes the Council/Manager form of government. The City Manager is hired by the City Council. The Council is comprised of seven elected members. The Council elects a Mayor and a Mayor Pro Tem from the Council. The current Mayor is Walt Schubert. The City Council positions are considered part-time. Many Council members have full-time careers in addition to their duties on the City Council. The Council positions are non-partisan and represent the community-at-large, rather than representing designated districts. The City Council is the legislative branch of city government. The council approves Ordinances as well as Resolutions expressing the policy directives of the Council. City Council meetings are held starting at 7:00 p.m. on the second and fourth Monday of each month. Work sessions are held the first and third Wednesday of each month, starting at 9:00 a.m. Each meeting is held at the Community Center, at 190 West Cedar Street. The City Council has established Boards, Commissions, and Committees to provide reports and recommendations to the Council concerning various issues.

10. The Sequim Police Department is a full-service law enforcement agency that performs patrol functions, crime-scene investigations, traffic enforcement, that employs

detectives, and that maintains a Records Bureau. The Police Department is located in the J.C. Penny's Shopping Plaza. In addition to the Sequim Police, a detachment of Clallam County Sheriff's Deputies share the facility with the Sequim Police Department. The Chief of Police is Ken Burge. The current fire station is located at 323 North Fifth Avenue . It houses one structural engine, one water tender, one rescue truck, two ALS medic units, one wild-land engine, and a mass-casualty incident vehicle. There are 22 career fighters and administration staff that work out of this station. The Sequim staff continues a long tradition of responding to fires with the help of approximately 20 dedicated volunteer firefighters.

11. Service Clubs with active branches in Sequim include:

- Alcoholics Anonymous;
- Elk's Lodge;
- Kiwanis Club (which meets every Thursday at the Paradise Restaurant, 703 N. Sequim Avenue in Sequim);
- Lions Club (which meets on the second and fourth Wednesdays of the month at the Guy Cole Convention Center at Carrie Blake Park in Sequim);
- Rotary Club (the Sunrise Club meets every Friday, 7:00 am at Petals Garden Cafe, 1345 S. Sequim Avenue in Sequim, and the Noon Club meets every Thursday at noon, at the Greenside Grill, 1965 Woodcock Road in Sequim);
- Soroptimists (the Morning Group meets on the first and third Tuesdays of each month at 7:00 am, at the Petals Garden Cafe, 1345 S. Sequim Avenue in Sequim, and the Afternoon Group meets on the second and fourth Tuesdays of each month at noon, also at the Petals Garden Cafe).

12. There are a number of local businesses. Many are listed in various categories at the Chamber of Commerce web site: <<http://www.cityofsequim.com/healthandmedical.html>>, <<http://www.cityofsequim.com/buildingandhousing.html>>, <<http://www.cityofsequim.com/farmandgarden.html>>, <<http://www.cityofsequim.com/foodanddrink.html>>, <<http://www.cityofsequim.com/>>

cityofsequim.com/lodging.html>, <<http://www.cityofsequim.com/organizations.html>>, <<http://www.cityofsequim.com/professionalservices.html>>, <<http://www.cityofsequim.com/realestate.html>>, <<http://www.cityofsequim.com/recreationandleisure.html>>, <<http://www.cityofsequim.com/retirement.html>>, <<http://www.cityofsequim.com/services.html>>, and <<http://www.cityofsequim.com/shopping.html>>.

13. The *Sequim Gazette* is Sequim's local newspaper. The *Sequim Gazette* is a weekly. It has a circulation of slightly more than 8,500 (about twice the population of Sequim proper). The *Sequim Gazette* is published every Wednesday. The *Sequim Gazette* is a member both of the Washington Newspaper Publishers' Association and of the National Newspaper Association. Over the years, the *Sequim Gazette* has won many awards for journalistic excellence. The *Sequim Gazette* is actively involved in the community, and it supports many local organizations and events. These include the Irrigation Festival (which takes place in Springtime), the Lavender Festival (which takes place in the Summer), and the Farms Tour (which takes place in the Fall).

14. Sequim's incorporated status is *prima facie* evidence of its worthiness to enjoy a first local service. But above and beyond simply being incorporated, Sequim is clearly a vibrant community that richly deserves a first local service. Allotting Channel 266A to Sequim will clearly further the goals of Section 307(b) of the Communications Act of 1934, as amended.

15. Plan 9 states its intent to apply for a construction permit for Channel 266A at Sequim, if allotted. Plan 9 further states its intent, should Plan 9 be awarded the construction permit, to build the authorized facilities, to place the constructed facilities into broadcast service, and to seek a license to cover those facilities.

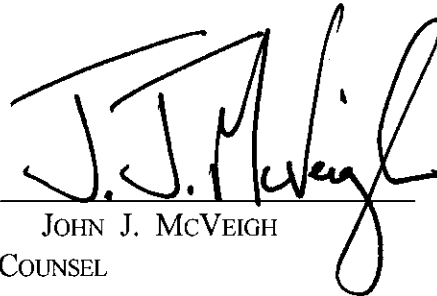
### III. CONCLUSION

16. For all of the above reasons, the staff should promptly issue a Report and Order implementing Plan 9's Counterproposal, rejecting Mr. Puopolo's original proposal, and terminating this proceeding.

Respectfully submitted,

**PLAN 9 BROADCASTING**

By

A handwritten signature in black ink, appearing to read "J.J. McVeigh", written over a horizontal line.

JOHN J. McVEIGH

ITS COUNSEL

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**DATE: SEPTEMBER 16, 2004**

## EXHIBIT A



JAMES B. HATFIELD, PE  
BENJAMIN F. DAWSON III, PE  
THOMAS M. ECKELS, PE  
STEPHEN S. LOCKWOOD, PE  
DAVID J. PINION, PE

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## **ENGINEERING STATEMENT**

**PETITION FOR RULEMAKING TO  
AMEND SECTION 73.202 OF THE RULES  
AND REGULATIONS FOR THE FEDERAL  
COMMUNICATIONS COMMISSION**

**TO ALLOT FM CHANNEL 229A  
FOR USE AT PORT ANGELES, WASHINGTON**

**PLAN 9 BROADCASTING**

**9/2004**

## **Engineering Statement**

This Engineering Statement has been prepared on behalf of Plan 9 Broadcasting ("Plan 9"), in support of a Petition for Rulemaking to amend §73.202 of the Commission's Rules to allot Channel 229A for use at Port Angeles, Washington.

### **Channel 229A at Port Angeles**

As outlined in the attached channel study, Channel 229A can be allotted for use at Port Angeles in compliance with the Commission's applicable Rules and Regulations regarding the separation among domestic FM stations and allotments. For this study the reference coordinates of Port Angeles (N48-07-05 x W123-25-45) have been used. The nominal distance to the 70 dBu F(50,50) contour for a Class A station is 16.2 kilometers. As demonstrated on the attached map exhibit, this site will provide greater than 70 dBu coverage for all of Port Angeles.

The proposed allotment of Channel 229A at Port Angeles is 105 km short-spaced to the licensed operation of Canadian station CJJR-FM on Channel 229C at Vancouver, British Columbia, and 12 km short-spaced to a vacant allotment on Channel 230A at Port Renfrew, British Columbia. Plan 9 respectfully requests that Channel 229A at Port Angeles be referred to Canada as a specially-negotiated short-spaced allotment. It is understood that it may be necessary to accept a power restriction towards CJJR-FM and/or Port Renfrew in order to

**Hatfield & Dawson Consulting Engineers**

prevent interference to those facilities over Canadian land areas, and Plan 9 is willing to accept such a restriction.<sup>1</sup>

The instant counterproposal will provide Port Angeles, an incorporated city with a 2000 Census population of 18,397 persons, with its fifth local service, and first commercial FM service.<sup>2</sup>

Grant of the proposed allotment at Port Angeles will provide a total of 52,322 persons within the 60 dBu contour with an additional aural service.

In addition, grant of this proposal will provide the first local commercial FM service to the north coast of the Olympic Peninsula. Port Angeles is located approximately two and a half hours by car from the major metropolitan center of Seattle, Washington. The trip to Seattle requires at least one ferry ride (either Kington-to-Edmonds or Bainbridge Island-to-Seattle) or a long drive around the south end of Hood Canal. Reception in Port Angeles of Seattle FM stations is spotty in any case. The only commercial FM stations which provide 60 dBu service to Port Angeles (apart from Canadian stations licensed to the Victoria, British Columbia, area) are KISM 225C Bellingham, KAFE 282C Bellingham, and KWPZ 293C Lynden, Washington.

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<sup>1</sup>The Working Arrangement for the Allotment and Assignment of FM Broadcasting Channels Under the Agreement Between the Government of Canada and the Government of the United States of America Relating to the FM Broadcasting Service, as amended in 1997, permits the use of directional antennas with front-to-back ratios of as much as 20 dB in order to provide interference protection to stations and allotments in the other country. See Paragraph 3.6 of the Working Arrangement.

<sup>2</sup>Port Angeles currently receives local service from non-commercial FM stations KVIX 207A (not yet on air) and KNWP 211A, and AM stations KIKN 1290 kHz and KONP 1450 kHz. It should be noted that AM station KIKN has agreed to surrender its license in order to accommodate a facility modification for AM station KKOL 1300 kHz Seattle. See BP-20011130AAS, granted on March 31, 2004.

Bellingham and Lynden are a three and a half hour drive from Port Angeles, again requiring one ferry ride (Port Townsend-to-Keystone). Consequently, residents and businesses in Port Angeles and the surrounding area do not have ready access to any local commercial FM stations to serve their unique needs.<sup>3</sup>

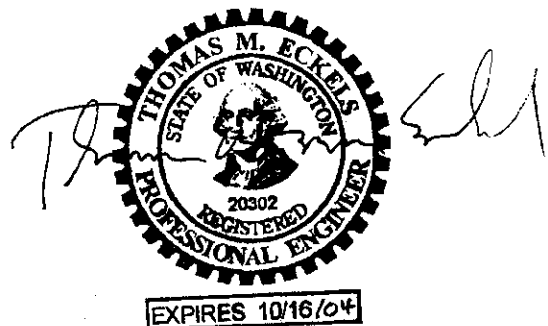
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<sup>3</sup>Two non-commercial FM stations are licensed to Port Angeles, Washington. KVIX 207A Port Angeles is licensed to Pacific Lutheran University, and operates as a satellite station from studios out of Parkland, Washington, 130 kilometers from Port Angeles. KNWP 211A Port Angeles is licensed to Washington State University, and operates as a satellite station from studios out of Pullman, Washington, 500 kilometers from Port Angeles.

### Statement of Engineer

This Engineering Statement supporting a Petition for Rulemaking to revise the Table of Allotments at Port Angeles, Washington, has been prepared by Erik C. Swanson under my direct supervision. All representations herein are true to the best of my knowledge. I am an experienced radio engineer whose qualifications are a matter of record with the Federal Communications Commission. I am a partner in the firm of Hatfield & Dawson Consulting Engineers and am Registered as a Professional Engineer in the States of Washington and Colorado.

Signed this 13<sup>th</sup> day of September, 2004.



Thomas M. Eckels, P.E.

A handwritten signature in cursive script, reading "Erik C. Swanson".

Erik C. Swanson

Hatfield & Dawson Consulting Engineers

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SEARCH PARAMETERS FM Database Date: 040907

Channel: 229A 93.7 MHz Page 1

Latitude: 48 7 5

Longitude: 123 25 45

Safety Zone: 32 km

Job Title: PORT ANGELES 229A

Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
KUBEaux LIC	SEATTLE WA	BLH-831110AF	227C 93.3	87.000 375.0	47-32-39 122-06-29	122.4	117.71 0.00	0 AUX
KUBE LIC	SEATTLE WA	BLH-010206AAA	227C 93.3	100.000 387.0	47-32-40 122-06-26	122.4	117.74 22.74	95 CLEAR
CJJRFM	VANCOUVER BC	-	229C 93.7	75.000 686.0	DA 49-21-29 122-57-09	14.0	142.28 -104.72	247 SHORT
NEW-T APP	ELMA WA	BNPFT-030314ADW	229D 93.7	0.140 147.0	46-59-11 123-21-24	177.5	125.94 0.00	0 TRANS
NEW-T APP	INDEPENDENCE WA	BNPFT-030310BNG	229D 93.7	0.150 4.0	46-48-58 123-09-24	171.8	146.20 0.00	0 TRANS
NEW-T APP	MERCER ISLAND WA	BNPFT-030310ASK	229D 93.7	0.010 224.0	47-36-57 122-18-26	123.3	100.82 0.00	0 TRANS
NEW-T APP	ORTING WA	BNPFT-030313BBQ	229D 93.7	0.010 140.0	47-05-24 122-14-26	141.6	145.10 0.00	0 TRANS
NEW-T APP	PORT DISCOVERY WA	BNPFT-030828BIW	229D 93.7	0.110 163.0	48-01-16 122-47-34	102.6	48.64 0.00	0 TRANS
NEW-T APP	SUMMIT LAKE WA	BNPFT-030312BFJ	229D 93.7	0.007 752.0	46-58-31 123-08-16	170.1	128.93 0.00	0 TRANS
NEW-T APP	VASHON CENTER WA	BNPFT-030317ABV	229D 93.7	0.099 130.0	47-26-06 122-27-54	136.2	104.83 0.00	0 TRANS
	PORT RENFREW BC	-	230A 93.9	0.000 0.0	48-32-48 124-24-10	303.9	86.50 -11.50	98 SHORT

44444 END OF FM SPACING STUDY FOR CHANNEL 229 44444

## CERTIFICATE OF SERVICE

I hereby certify that I have, this Sixteenth day of September, 2004, sent a copy of the foregoing **COUNTERPROPOSAL** by first-class United States mail, postage prepaid, to:

Dana J. Puopolo  
2134 Oak Street, Unit C  
Santa Monica, California 90405



J.J. McVeigh